

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

LEM ELLIS GROVE,

Petitioner,

Case Number: 5:07-CV-11703

v.

HON. JOHN CORBETT O'MEARA

BLAINE LAFLER,

Respondent.

**OPINION AND ORDER DENYING PETITIONER'S MOTION TO
ADMINISTRATIVELY REOPEN CASE AND GRANTING MOTION
TO CONTINUE HOLDING CASE IN ABEYANCE**

Petitioner Lem Ellis Grove filed a *pro se* petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, challenging his conviction for second-degree murder. Petitioner then filed a “Request to Amend Pursuant to Rule 15(a), and Motion to Stay and Hold Case in Abeyance” so that he could return to state court to present two unexhausted claims. The Court granted Petitioner’s request, held the petition in abeyance, and administratively closed the matter. Now before the Court are Petitioner’s Motion to Administratively Reopen Case and Motion to Continue Holding Case in Abeyance.

In his Motion to Administratively Reopen Case, Petitioner asks the Court to reopen the habeas proceeding to allow him to pursue relief in federal court. Based upon the representations made in that motion, it appears that Petitioner has not yet exhausted state court remedies, but was prompted to file the motion because the state court failed to promptly address his motion for relief from judgment. Shortly after filing the Motion to Administratively Reopen Case, Petitioner filed another motion, this time asking the Court to continue holding his case in

abeyance. According to Petitioner, the state court, after an extended period of inaction, appointed counsel to represent Petitioner in connection with his motion for relief from judgment in the trial court. Because Petitioner now believes he may be afforded some relief in state court, he no longer wishes to reopen this habeas proceeding.

The Court finds that the interests of justice are best served by allowing Petitioner to continue pursuing exhaustion of state court remedies and continuing to hold the habeas proceeding in abeyance.

Accordingly, **IT IS ORDERED** that Petitioner's Motion to Administratively Reopen Case [dkt. # 12] is **DENIED**.

IT IS FURTHER ORDERED that Petitioner's Motion to Continue Holding Case in Abeyance [dkt. # 14] is **GRANTED**.

s/John Corbett O'Meara
United States District Judge

Date: February 18, 2010

I hereby certify that a copy of the foregoing document was served upon the parties of record on this date, February 18, 2010, using the ECF system and/or ordinary mail.

s/William Barkholz
Case Manager